

UTILITY-AFFILIATED MARKETERS HAVE EDGE OVER COMPETITORS, NRRI REPORT WARNS

THE ENERGY REPORT via NewsEdge Corporation: Utilities are motivated by profits to pass through undetected and unauthorized costs to their captive customers in a deregulated, competitive market and can gain the upper hand over competitors, warns a study prepared by the research arm of the National Assn. of Regulatory Utility Commissioners.

"Given that all firms seek to maximize profits, it should be no surprise to find firms actively attempting to circumvent regulatory constraints in an attempt to maximize profits," the report states.

The report highlights the perils of "a mixed market environment" in which regulated utilities seek to evade regulatory constraints by setting up unregulated marketing affiliates.

An Economic Analysis of Marketing Affiliates in a Deregulated Electric Power Industry, prepared by the National Regulatory Research Institute (NRRI), cites four regulatory concerns: cross-subsidization, cost shifting, discriminatory self-dealing and informational advantages.

The study calls cross-subsidization "one of the most serious potential problems associated with the existence of marketing affiliates linked to a utility." This occurs when the marketing affiliate in the unreg-

ulated competitive market charges prices below marginal cost, incurring losses, according to the report's author, Jason Abel. Revenues from the local distribution company provided by above-cost prices are used to make up the difference.

With this advantage over nonaffiliated marketers, a utility affiliate can resort to predatory pricing to drive other marketers out of business or prevent the entry of efficient rivals, Abel notes.

Related to cross-subsidization is cost shifting, which takes place when some costs incurred by the marketing affiliate are passed onto the books of the regulated local distribution company. The parent company does not lose by this since its regulation is tied to reported costs. "In fact," says Abel, "profits will increase because the parent company will receive higher revenues for the additional costs reported."

Detection of this problem is quite difficult, the study asserts, adding, "It is possible that common costs exist for the marketing affiliate and local distribution company. Without strict (and mutually agreeable) rules on how to allocate these common costs, detection may be near impossible."

Discriminatory self-dealing involves such considerations as the terms for gaining

access to distribution facilities, which may be more favorable for the distribution company's marketing affiliate than for others in the competitive marketplace. Another intracompany transaction in the self-dealing category could be the purchase of services or products from the affiliate by the parent at inflated prices, according to the study.

Counted among "informational advantages" is the knowledge of consumer characteristics that the parent could pass on to the marketing affiliate -- information not available to independent marketers.

On the whole, Abel says, electricity consumers as a group are "worse off" as the result of the operations of unregulated marketing affiliates associated with regulated local distribution companies. He recommends further research to gain "a more accurate picture of the utility-affiliate relationship and make conclusions about resulting net social effects."

The report can be viewed on the Internet at www.nrri.ohio-state.edu. For questions about the report, contact NRRI at 614-292-9404.

<<THE ENERGY REPORT -- 03-02-98>>

CONTRACTOR INDUSTRY NEWS

Utility cross-subsidies could cost consumers as much as \$2 billion

WASHINGTON — Cross-subsidization of utility entry into hvac contractor-ing is a growing condition that could cost utility consumers about \$2 billion per year, according to a new, independent economic study commissioned by the Air Conditioning Contractors of America. It could also lead to the unemployment of more than 60,000 existing workers within five years.

The study was previewed at the

ACCA convention in Ft. Worth, Texas, (April 1998, p. 5). The final version of the study was released June 8.

Author Richard C. Carlson, chairman of Spectrum Economics, Palo Alto, Calif., examined the impact of utility entry into the air conditioning installation and maintenance industry. After analyzing electric utility deregulation in seven states — including New York, Nevada, Michi-

gan, Maryland, Virginia, Colorado and Ohio — Carlson argues that cross-subsidization of utility affiliates in unregulated service industries could result in new economic inefficiencies.

Utilities use rate payers' money to "cross-subsidize" their affiliates — i.e., use assets from a regulated side of their business in non-regulated businesses such as hvac service. According to Carlson, cross-subsidization represents a major threat to fair competition in the hvac industry, as well as in the electrical, plumbing and other contracting industries.

"In a few states, such as Delaware and Maryland, utility affiliates have used their market power and cross-subsidies to gain over 20% of the hvac market," observed Carlson. "These affiliates have enjoyed substantial cross-subsidies from their related utilities in the form of free advertising, free marketing, free customer information, free or reduced cost of employees and free equipment. These cross-subsidies impose costs on the electric consumer and are contrary to the goals of open competition on which deregulation is premised," he writes in the study.

Carlson said consumers are harmed by cross-subsidization both in the market for electricity and in markets served by unregulated utility affiliates. "The utility affiliate's ability to price its services at below cost in order to gain market share allows it to drive other competitors from the market," he wrote.

8 mechanicals

(Continued from page 1)

- run by Mark A. Zilbermann, 45;
- High-tech Silicon Valley contractor Air Systems in San Jose, Calif., headed by John W. Davis, 43, with \$91 million in revenues;
- Energy Systems Industries in Boston, led by Anthony I. Shacter, 54, with revenues of \$54.2 million;
- New England Mechanical Services in Vernon, Conn., headed by Charles P. Reagan, 48, with revenues of \$39.4 million per year;
- Lee Co., Nashville, Tenn., run by William B. Lee, 38, with revenues of \$39.7 million;
- Hill York Conn and Hill York Co.



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NO NEW UTILITY SERVICE CONTRACTS

Public Service Electric & Gas Co. has been ordered to stop selling new service contracts for appliance repair outside its original service territory. And an audit of the utility will look for evidence of cross-subsidization.

BY JOHN R. HALL

NEWARK, N.J. — The New Jersey Board of Public Utilities (BPU) has ordered the Public Service Electric & Gas Co. (PSE&G) to stop offering appliance repair service contracts to customers beyond its original service territory.

BPU said that PSE&G failed to obtain permission to sign up customers outside its service area.

As reported in the August 10 News, BPU had cleared the way for PSE&G's expansion into new service markets by denying a motion filed by the Coalition for Fair Competition, to stop expansion of the statewide service plan.

The dispute centers over interpretation of the word "new."

HOW NEW?

According to PSE&G spokesman Paul Rosin-

gren, the terminology is ambiguous.

"The utilities have to get prior board approval for starting new services," he said. "We interpret our service contracts as part of an 'old' service which is just expanding into new territories."

The ruling affects between 5,000 and 6,000 service contracts in the new territory. BPU said that PSE&G can honor all existing contracts, but must not offer them to customers in new territories.

PSE&G can continue to offer new service contracts to customers within its original service area.

Rosingren said that his company will reapply for BPU approval because he feels PSE&G needs estab-

lished approval criteria:

- The service does not undercut their core business.
- The service is non-discriminatory.
- The service is not funded by cross-subsidization.

Rosingren also said he feels that his company needs to expand in order to stay competitive and keep its market share. "There are out-of-state

Page 4, Please

No new service contracts

Continued from Page 1

utilities who are moving in and offering service contracts."

BLATANT VIOLATION?

The Coalition for Fair Competition, representing hundreds of appliance repair contractors, said it is pleased with the ruling, but would like the BPU to go one step further.

"We are disappointed that the BPU didn't hand down any sanctions against PSE&G," said Coalition attorney Peter D. Dickson of Polder & Dickson, Princeton, N.J. "We see this [expansion] as a blatant violation of the original ruling."

Dickson said that the BPU should have made a public statement, citing PSE&G for break-

ing the law. He also said that the new contracts established beyond the original territory should not end up lining the pockets of the utility.

"We would like the BPU to find a mechanism to discourage any profits from the new service contracts."

For now, the utilities board will conduct an audit to determine if money used by PSE&G to subsidize these service contracts is coming from the utility's energy customers. The coalition said it is eager to assist the BPU.

"We have met with them to show them what to look for during the audit," said Dickson.

For Independent Contractors' Group, Price of Deregulation Is Eternal Vigilance

Even with legislation unlikely to pass this year, trade alliance keeps up pressure for protection from big utilities' subsidiaries

Even the most supercharged optimist admits there is little chance this year that Congress will pass legislation deregulating the nation's \$215 billion electric industry.

The legislative year is too crammed, the number of unsettled questions too large and the political currents too treacherous to allow much — if any — progress.

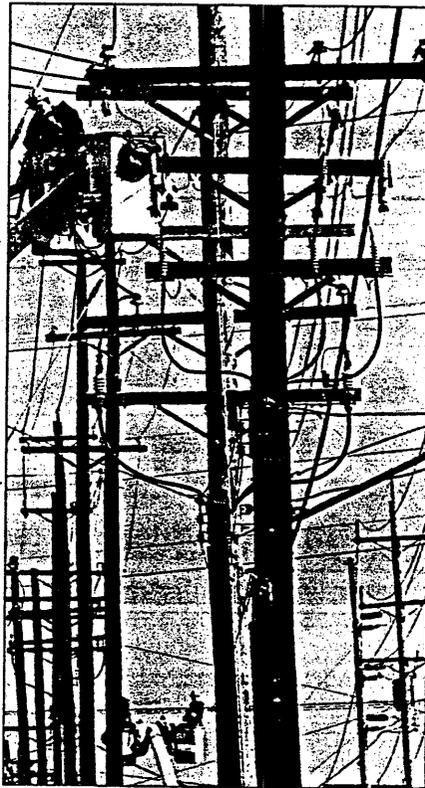
This should come as happy news to John Herzog, a Washington-based lobbyist for the Air Conditioning Contractors of America who gets more than a little nervous at the prospect of giant utilities roaming free in an expanded marketplace.

Deregulation is already being planned in more than 20 states, but supporters of deregulation want Congress to pass overarching legislation to ensure that a minimum set of rules are established and that it is evenly applied. A keystone to deregulation is repeal of the Public Utilities Holding Company Act, a 1935 law that restricts 16 big utility companies from diversifying into new businesses. (*CQ Weekly*, p. 400)

That is not likely to happen, but Herzog refuses to rest. And in so doing, Herzog and the Air Conditioning Contractors of America, which represents more than 4,000 manufacturers and contractors, illustrate how some issues can gum up high profile and complex bills.

There is little mystery about Herzog's concerns. Many of the members of his trade group are small businesses that could stand directly in the path of affiliates created by giant utilities to exploit lucrative opportunities.

Herzog is worried about something known as cross-subsidization. Cross-subsidization refers to the practice of using resources from a regulated business sustained by captive ratepayers, such as an electric utility, to help non-regulated businesses, such as a heating and air conditioning contractor, wedge into a new



A Cincinnati Gas & Electric Co. crew works on a row of power lines.

market. Under current law, state regulators decide whether utilities can enter new markets. But under deregulation, Herzog and others believe a stampede will ensue from the utilities as they rush to grab new business.

The contractors Herzog represents believe they are in jeopardy because a utility's heating and air conditioning subsidiary would benefit from the name recognition, management prowess and advertising advantages that the utility enjoys, benefits underwritten by ratepayers.

In short, Herzog argues that unless Congress sets national standards to ensure fair competition, utilities would have a pronounced advantage in competing for the minds, hearts and dollars of the hot, the cold and the climate-affected.

"If they want to compete, fine. We

don't have any problem with that," Herzog said of his nemesis, the utilities. "All we ask is that they compete with us on a level playing field."

With deregulation, the study by Spectrum Economics, a Palo Alto, Calif., consulting firm, says, "the future of these independent contractors is threatened by anticompetitive practices associated with the entry of large electric and gas utilities into the [heating and air conditioning] industry through unregulated affiliates."

Utilities dismiss such claims as unfounded. The air conditioning contractors, said Richard McMahon, director of Competitive Strategies and Policies for the Edison Electric Institute, the trade group for the utilities, have only one goal.

"It's about them trying to limit competition," McMahon said. "In their view, a good utility is one that makes referrals to them and a bad utility is one that doesn't. Conceptually, it does not wash. Just because [utilities] are winning market share doesn't mean they are cheating."

Computer Lists and Inserts

For Herzog, protection means a world in which monthly power bills do not arrive with flier inserts advertising a utility's heating and air conditioning subsidiary. It would outlaw the utility lending its customer list, computing power or idle workers to an affiliate, such as an air conditioning subsidiary.

These prohibitions are already in place in some states, but Herzog wants national standards.

Only Congress can provide those protections, Herzog says, and if it fails to act, utilities will suffocate the "Mom and Pop" operators who form the backbone of Herzog's organization.

Utilities, however, point out that protections already exist, and states can be counted on to enforce fair-competition standards. In November, the California Public Utilities Commission ordered Pacific Gas and Electric Co. to pay a \$1.68 million fine for not "clearly and legibly"

By Charles Pope

www.cq.com

identifying the company's affiliate as a separate entity in advertisements.

In 1997, California regulators allowed affiliates to use a utility's name and trademark only if ads clearly informed consumers of the relationship between the two and made it clear that customers are not required to buy the affiliate's product to receive electricity.

"The state [public service commissions] have a strong role on this," McMahon said.

States Ready To Regulate

Herzog disagreed. Even if every state adopts fair competition standards and enforces them, the resulting patchwork will make it difficult for small companies to attract customers if they offer services in more than one state.

He also argued that state regulators will be overwhelmed. Currently, about 42 percent of utilities are involved in the heating and air conditioning business, with activity most intense in Maryland, Virginia and Colorado, according to the 1998 study commissioned by the Air Conditioning Contractors.

In Delaware and along Maryland's Atlantic coast, the study states, Delmarva Power (which has since been renamed Connectiv) has captured 20 percent of the residential and commercial market for air conditioning.

In Maryland's largest city, Baltimore Gas and Electric Co. "is moving aggressively into the [heating and air conditioning] business," the study concludes.

These concerns fell on receptive ears in the 105th Congress as Rep. Dan Schaefer, R-Colo., added language to his electric deregulation bill establishing a federal prohibition on cross-subsidies. His bill, however, died quietly. (1998 CQ Weekly, p. 2021)

No one expects language that strong to emerge in this Congress, even though congressional aides and lobbyists said the question will attract considerable attention.

The debate should begin to firm up in the coming weeks when the first of several electric deregulation bills is expected to be introduced.

Sen. Frank H. Murkowski, R-Alaska, chairman of the Energy and Natural Resources Committee, is finalizing his deregulation bill. The Clinton administration and Rep. Steve Largent, R-Okla., are also in the final stages of writing legislation.

An administration official said its

proposal is likely to parallel one that was introduced by the administration.

That proposal, which established the contours for any administration bill this year, would have allowed consumers to pick their own electric utility service by 2003, in much the same way they now select a long-distance telephone carrier.

But Murkowski and other critics dismissed a requirement in the administration bill that consumers pay \$3 billion annually into a new federal fund for low-income energy assistance, energy efficiency and conservation.

Murkowski was equally critical of a mandate that at least 5.5 percent of the nation's electricity be generated from renewable sources by 2010. Murkowski believes those sources, which include



Sen. Frank H. Murkowski said he would throw his bill out there to see if there's any interest, but "We don't have the same intensity from the industry we've had previously."

hydro power, solar energy and wind power, are unreliable and expensive.

At the center of the administration's plan last year was the expectation of open competition nationwide among electricity suppliers by 2003. The proposal contained a circuit breaker, allowing states to "opt out" if there is evidence that competition would not yield positive results for consumers.

Those expectations and features are likely to remain, an administration official said.

Likewise, there is general agreement that Congress should dismantle the Public Utilities Holding Company Act. (1998 CQ Weekly, p. 3111)

New to the Job

Braiding these issues together in the House falls to Rep. Joe L. Barton, R-Texas, who took over from Schaefer as chairman of the Commerce Committee's Energy and Power Subcommittee. He has been actively pushing for electric deregulation to come to a vote this year, saying it is his top priority.

Barton's spokeswoman, Samantha Jordan, said Barton is undecided whether he will introduce his own bill or support Largent's or some other bill.

"He's going into the hearings with an open mind," Jordan said. "He's going to be starting from scratch."

Still, there is little momentum for action. Electric rates are generally low; big industrial users have largely stayed out of the fight, and congressional leaders are partial to less complex legislation that can burnish Congress' image by moving fast.

And to a large degree, states have already filled the void. More than 20 states have deregulated electric utilities and two major ones — Texas and Michigan — are considering bills.

"We don't have the same intensity from the industry we've had previously, and I assume [that is] because the states are moving ahead with their own

dereg, and secondly because we've been preoccupied here with impeachment," Murkowski said.

Even so, he added, "I'll throw [my bill] out there to see if there's any intensity."

According to a Murkowski aide, the future of any bill will hinge on whether agreement can be reached on several big issues.

These include defining the relative roles of state and federal governments; whether government-owned producers such as the Tennessee Valley Authority and the Bonneville Power Administration are privatized; and a thorny tax dispute on whether quasi-government utilities could issue bonds, then compete against private utilities. There is also the question of how to deal with nuclear power.

Even if those questions are resolved, Herzog and his allies could cause considerable mischief if their concerns are not considered.

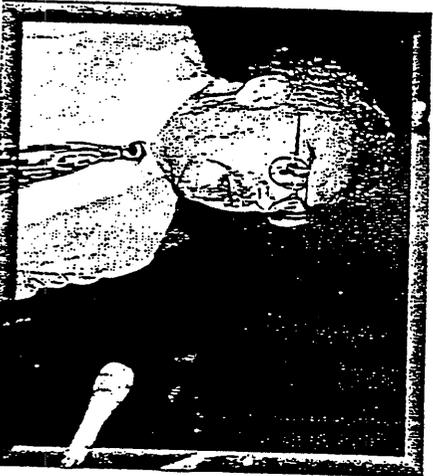
"All of this is really like a Rubik's Cube," said one House aide who is helping write a deregulation bill. "Just when you get four red cubes lined up, you get an issue like [cross-subsidies] and it throws everything off." ♦

Contractors tell Congress

Include fair competition in utility deregulation bills

WASHINGTON — Hvac contractors from several organizations testified before the House Small Business Committee Subcommittee on Regulation Reform and Paperwork Reduction during the first hearing dedicated exclusively to small business aspects of utility restructuring.

Two members of the Air Conditioning Contractors of America (ACCA), Cliff McCourt and John Bishop, gave lawmakers personal accounts of



Cliff McCourt told House members that deregulation of utilities was a good opportunity to restrict them from using cross-subsidization to compete unfairly with hvac contractors.

how their businesses have been adversely affected by utility entry into the hvac industry.

McCourt is the owner of Day and

Page 4, Please

York denies OSHA charge that it knew of explosion danger

YORK, Pa. — York International Corp. has filed a formal notice of contest against an OSHA ruling on the Feb. 2 explosion at the Grantley Road chiller manufacturing facility.

The federal Occupational Safety and Health Administration (OSHA) office in Harrisburg, Pa., cited the company for one "willful" and five "serious" violations. The penalties assessed total \$105,000. The willful citation, which carries a \$70,000 penalty, alleges the company ignored a situation it knew to be dangerous.

York International chairman and ceo Robert Pokelwaldt said the company disagrees with OSHA's conclusions. He called the citations "improper and based upon incorrect information."

The company noted that recent on-site inspections by state officials, its insurance carrier, and by the Harrisburg OSHA office itself had failed to

Page 4, Please

Fair utility competition

Continued from Page 1

Night Heating and Cooling, a 25-year-old family business. He is co-chairman of the Michigan Alliance for Fair Competition, a trade association representing more than 2,500 businesses and their thousands of employees.

Bishop represented Gurnee Heating and A/C, Closser, N.J. Also, Laurie Crigler, a member of the Plumbing-Heating-Cooling Contractors—National Association (PHCC), urged Congress to include fair competition provisions in its deregulation legislation.

CROSS-SUBSIDIZATION

"Utilities have many ways to cross-subsidize their hvac affiliates," McCourt explained. "Although revenue is an important factor, it's only one of many ways a utility can cross-subsidize."

"I would like to be perfectly clear that independent contractors, myself included, are not afraid of true competition," said McCourt. "I compete every day against the largest contractors and corporations. I'm also prepared to compete with utility affiliates provided they do not enjoy anti-competitive subsidies."

McCourt urged lawmakers to eliminate cross-subsidization. "Not only must any deregulation prohibit cross-subsidization, it must spell out appropriate remedies in order to guarantee competition that is truly free and

fair," he said.

He asked members of the subcommittee to support federal law prohibiting abusive monopoly powers from using ratepayer dollars to engage in unfair competition in other states as well as at home.

McCourt reminded subcommittee members that a substitute amendment for H.R. 655 has been circulated among members of the Commerce Committee as a possible vehicle for electricity deregulation.

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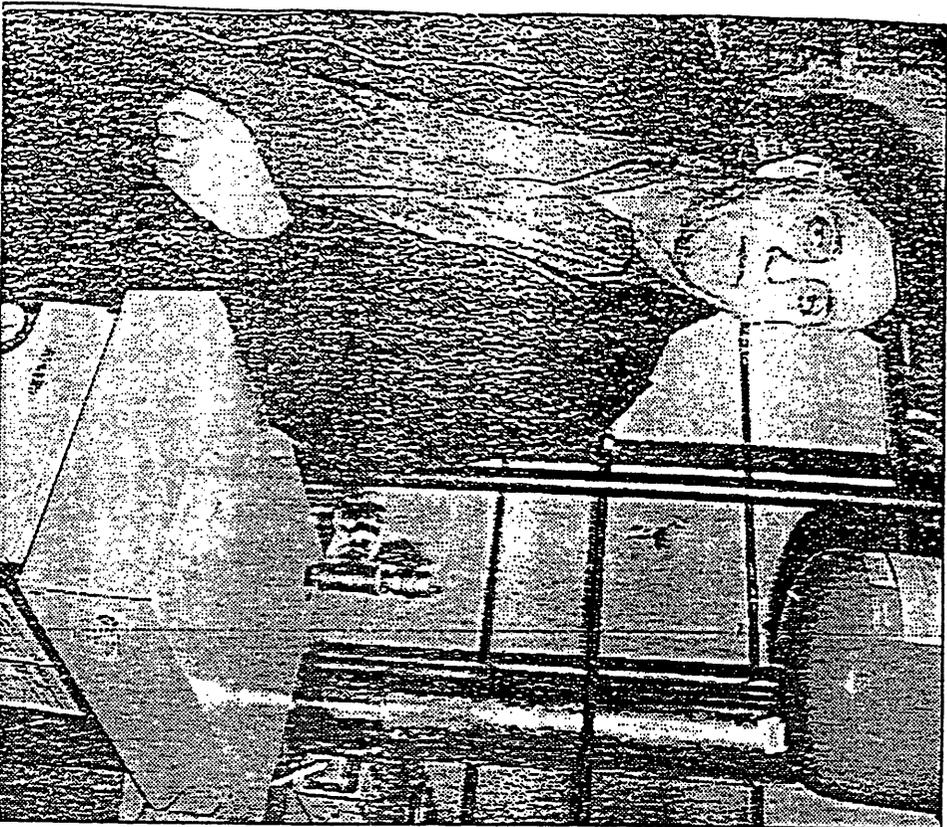
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Gary Higgins/The Patriot Ledger
Bill Angelos says his company has lost half of its furnace sales business.

Small companies in tough fight for furnace sales

By Sue Reinert
The Patriot Ledger

Bill Angelos once could count on income from selling gas furnaces to sustain his Sloughton heating company when other business cooled off.

"It used to take up the slack a lot," says Angelos. Not any more. In the last year and a half, Angelos company, Dinolos & Angelos & Sons, has lost 50 to 60 percent of its gas furnace sales revenue, the longtime contractor says.

The reason? Bay State Gas Co., the Westborough-based natural gas utility, is horning in on a business that formerly was the province of scores of small heating firms: replacing homeowners' furnaces, Angelos says.

It's the type of complaint that could escalate as competition heats up in both the gas and electricity markets. Heating contractors accuse Bay State and two other utilities of using their unique position as trusted local gas companies to freeze out small independent contractors.

The discontent came to a head last month when Brockton contractor James Pagnasodero filed a written complaint against Bay State with the Department of Telecommunications and Energy, formerly the Department of Public Utilities. Pagnasodero and three other contractors also targeted furnace marketing programs at Commonwealth Gas Co. and Colonial Gas Co. at a

meeting with DTE officials in October, but didn't send anything in writing, Pagnasodero said.

In the case of Bay State, the last of the three utilities to start selling furnaces, contractors say the company takes unfair advantage of its power to turn off the gas.

Homeowners automatically turn to the utility when something goes wrong with their furnace, contractors say. A company inspector can shut down the boiler as unsafe — then offer to sell the customer a replacement on the spot.

A Bay State worker turns off the gas to the faulty furnace, "then in the next breath, they say 'We can replace it this afternoon,'" said Norm Belanger, owner of Custom Cooling & Heating Inc. in Blackstone. "What person in his right mind is going to say, 'I'm going to get some more bids?'"

Bay State officials say the company began selling replacement furnaces two years ago merely to help customers. "We're not interested in competing with local contractors. We're more interested in customer service, keeping our customers warm and safe," said Ronald Moreira, manager of community and government relations. Previously Bay State repair workers who "red-tagged" a homeowner's boiler — shut it off — would hand the customer a list of about 50 local

Battle heats up over furnace sales

HEATING
Continued from Page 25

heating contractors willing to replace the boiler, Moreira said. Some customers wanted more immediate action, he said.

"We've had complaints from customers — you're here, it's the middle of the night, I'm cold. Can't you do something?" Moreira said. Now, company employees hand out a Bay State brochure offering company furnaces — along with the local contractor list. Bay State's service department sold 250 furnaces in the 1995-1996 winter heating season, 400 last winter, Moreira said. He called it "a limited number" and said the company markets only to homeowners whose furnaces are too dangerous to operate.

Contractors aren't satisfied, but so far Pappasodero is the only one who's formally complained. "We're kind of used to being mistreated by the gas industry and don't think there's anything new in this," said Leonard Bicknell, owner of Alvin Hollis Co. Inc. in South Weymouth.

Pappasodero's complaint says Bay State is violating a utility "code of conduct" the DTE adopted last year. The regulations were written to prevent utilities from taking unfair advantage of their market power to kill competition, and to keep utilities from using ratepayers' money to support their unregulated ventures.

The rules prohibit utilities from helping their own affiliated companies or divisions sell "energy-related services." Utilities can't jointly advertise such services with the affiliate or speak on behalf of the affiliate, the rules say.

There have been no customer complaints regarding the utilities' sale of furnaces, DTE spokesman Tim Shevlin said. The DTE is investigating Pappasodero's complaint and has asked for more information from the contractors, Shevlin said.

Bay State denies it's violating the rules. Selling furnaces isn't the type of energy-related service covered by the regulations, said Bay State counsel William MacGillivray.

"Is it competitive with the heating contractors? Yes it is," MacGillivray said. "Is it a benefit to the customer? Yes."

Customers don't pay anything for the furnace program in their rates — and they get none of the profits, MacGillivray said. However, ratepayers do fund the Bay State workers

who inspect malfunctioning boilers and hand out sales brochures for the company's furnaces, he acknowledged.

The two other gas companies that sell furnaces defend their programs. "In our service territory there are over 150 contractors listed in the Yellow Pages who sell and service equipment, so the premise that our being in the business has hindered competition seems rather difficult to swallow," said Colonial Gas spokeswoman Patsy Gillette.

"Our heating program provides good service to customers," said Peter Dimond, spokesman for Commonwealth Gas Co. Unlike Bay State, Commonwealth doesn't assign service workers who red-tag furnaces or water heaters to promote its marketing program, Dimond said.

While contractors and utilities argue, the DTE is considering expanding the code of conduct to cover all types of services that newly deregulated utilities offer, not just "energy-related" activities.

At a hearing Dec. 8, utilities opposed the move, saying it would hinder their own ability to compete in other markets.

"Our primary purpose is to encourage competition," said Alfred Kahn, an economist who favored deregulation when he headed the Federal Aviation Administration and the New York State Public Service Commission.

The proposed rules will protect utilities' rivals, not consumers, Kahn said. Kahn, who testified on behalf of Boston Edison Co., was not thinking about utility rivals like small heating contractors, but huge companies that want to stop Boston Edison's bid to get into the telephone and cable television business.

Companies like Bell Atlantic don't need protection from Boston Edison, Kahn said. Therefore the state shouldn't prevent Edison from using its brand name, advertising channels and its fiber optic network to sell telecommunications services, as long as ratepayers don't pay for the venture, Kahn testified.

But the same principle applied to the mundane business of selling furnaces could hurt small businesses — and eventually consumers, says Rep. Frank N. Hynes, D-Marshfield.

"From the perspective of the average customer, one has to be concerned because once you have essentially a monopoly on the sale, maintenance and repair of these kinds of items the customer is ripe for being disenfranchised," Hynes said.

PEOPLE ARE TALKING ABOUT THE IMPACT OF UNFAIR UTILITY SUBSIDIES ON COMPETITION

All over America, people are talking about competition in the electric power industry. They're debating whether utility deregulation will lead to lower electricity prices. While the experts don't agree on whether, or how much, electricity prices may go down, they do agree on one thing: if utilities are allowed to subsidize their unregulated businesses – like those providing heating, ventilation, air conditioning, and refrigeration (HVACR) services to millions of homes and businesses – it will mean less competition in those industries and higher prices and fewer services for consumers.

Here's what some leading experts have said:

"Many utilities, looking for new ways to compete to weather the shakeout that is expected to occur when their industry is deregulated, are getting into the heating, ventilation, and air conditioning business."

The Washington Post
News Story: "Conditioned to Consolidate"
July 27, 1997

"Competition with monopoly utilities in unregulated markets can result in the destruction of non-utility competitors... Where utilities charge substantially less than independent contractors for comparable services, some form of cross subsidization... can be reasonably suspected."

Office of Advocacy
U.S. Small Business Administration
Utility Competition With Small Business
June 10, 1986

"[A]ny provider able to dominate the market by virtue of its position as a monopolist of one service in that market – as ComEd is – will inevitably drive many, or all, competing firms from the market. When ComEd attains a dominant market position, it can reasonably be expected to exercise market power by exploiting the market through raising prices and/or restricting the provision of service... ComEd customers desiring energy services will not receive a competitive price for energy services because there will be no competitive price."

Illinois Commerce Commission
Order denying a Commonwealth Edison Company (ComEd) petition to provide energy support services to energy users
March 31, 1997

"Several gas utilities perform some basic plumbing work related to their provision of natural gas as part of their utility business, at a price lower than that of many stand-alone businesses... [T]he provision of appliance repair services at subsidized prices is inappropriate... We shall require that appliance repair services only be performed through separate, unregulated subsidiaries with a

complete separation of functions. That approach best protects against competitive abuses and fosters long-term effective competition."

State of New York Public Service Commission
Order Concerning Gas Appliance and Repair Service
April 4, 1997

"Is it *just* and *reasonable* for the private owners of a non-regulated business to benefit from the goodwill generated by the activities of a monopoly, without compensating the monopoly for that benefit? Put more simply, is it *just* and *reasonable* for the utility to give away a valuable asset? I think not... The things that contribute to goodwill – particularly efficiency and safety of service – are certainly the product of items specifically included in the rate base and thus paid for by consumers."

Minnesota Supreme Court Justice Sandra Gardebring
Minnegasco v. Minnesota Public Utilities Commission
June 13, 1996

"Most legislation falls into one of three categories: (1) necessary measures that are the proper role of government, (2) measures designed to do fine things that are none of government's business, and (3) measures that violate the values a majority of citizens hold. Among bills qualifying as (1) that warrant the [Virginia] General Assembly's approval are those that would...

- *Make the State Corporation Commission ensure that regulated utilities don't use ratepayers' money to subsidize non-regulated activities. Of course, this bill wouldn't be necessary if the Assembly hadn't given away the store to Virginia Power last year.*

Richmond Times-Dispatch
Editorial
January 22, 1997

"Ironically, more competition among giant electric companies may mean a lot less competition in related consumer services. Call it the law of unintended consequences, but this great utility 'shakeout' may reduce consumer choice and bring on much higher prices for electrical products and services now delivered to homes and businesses by independent contractors."

Chris Colditz
President, Northern Illinois Air Conditioning Contractors Association
Guest Opinion Column
Chicago Tribune
September 1, 1997

MYTHS & REALITIES

About Competition Between Independent HVACR Contractors and Utilities

Myth

Big electric utilities pose no threat to competition in the heating, air conditioning, ventilation, and refrigeration (HVACR) business. After all, they're only competing with national appliance and service providers that are also huge organizations with substantial resources.

Reality

Some large retailers offer HVACR services (usually hiring private contractors to provide them), but most contractors are small, community-based companies. There are thousands of small contractors, including many family businesses employing fewer than 25 people. Unfair utility competition threatens them all.

Myth

Utilities will do a better job than small, independent HVACR contractors of offering customers the newest products and services.

Reality

Private HVACR contracting businesses are exceptionally competitive. To survive, contractors have always provided their customers with what they want — the latest products, convenient service, and 24-hour availability every day of the year. In fact, many utilities call on independent contractors to handle their most difficult jobs.

Myth

Utilities charge HVACR customers lower prices than small contractors.

Reality

Some utilities offer lower prices on some HVACR products and services, but it's a marketing gimmick. They subsidize non-utility business activities using money paid by electricity ratepayers, even though such subsidies are illegal in many states. Utilities can low-ball certain products and services only because of ratepayer subsidies, something their rivals — no matter how large or small — cannot offer. However, many state regulatory agencies and consumer advocates are concerned that, once utilities eliminate competition from independent contractors and other product and service vendors, they will raise prices to levels much higher than those in the current competitive market.

Myth

HVACR consumers benefit — through lower prices — when utilities allow their subsidiary businesses to use the parent utility's brand name, logos, and other image materials to market products and services.

Reality

Utilities are widely known to consumers because they are monopolies in their service areas. They acquire their highly visible names, recognized logos, and other aspects of their image because they operate without competition and use revenue from captive ratepayers and profits that are guaranteed by the government. In that sense, these assets belong as much to consumers as they do to the utility. A subsidiary that uses the utility's name, logos, and other assets to reach potential customers gets something valuable for free and enjoys an unfair advantage over its competitors, unless it pays the market value for these assets.

Myth

Utilities should be allowed to sell electric appliances and to service energy equipment because they have special skills developed from providing electricity to communities.

Reality

The truth is, they don't. The capabilities necessary to provide reliable electric service from a powerplant to a home or business are very different from those needed to install an air conditioning system or to service a furnace. Private contractors have special training in equipment installation and service. Utility linemen and other employees have no such training. That's why many utilities hire private contractors to fulfill their customer service calls. Utilities are in the business of generating and delivering electric power, not installing and servicing appliances.

Myth

Utilities own their name, logo, customer data, capital equipment, and reputation. It's only fair that they be allowed to use their assets the best way they see fit.

Reality

Every utility asset — from its powerplants to its electric transmission and distribution lines to its logos and brand names — are bought and paid for by captive ratepayers. For decades, there has been no competition in the electric power industry. Customers have had no choice, and utilities have had a free ride accumulating their assets. To allow them to use assets acquired at public expense to compete with small contracting businesses that are the products of tough competition is unfair to those businesses and to electricity ratepayers.

10 WAYS UTILITIES USE YOUR MONEY TO STOMP ON SMALL BUSINESSES

Big utilities are using money from you and other captive customers — people who have no choice in where they buy electricity — to unfairly compete against independent contractors. That hurts small businesses, because most of the companies that provide contracting services now are small and community based. Many are family owned.

With the guaranteed money they get from electricity ratepayers, utilities subsidize their other businesses and gain an unfair advantage over small competitors.

Here's 10 ways utilities use your money to compete unfairly:

- **Capital.** They provide loans, guarantees, and subsidies to start new businesses.
- **Credit.** They let subsidiaries use their credit rating to borrow money at lower rates than their competitors.
- **Data.** They give subsidiaries access to extensive data on every customer in their service areas, including proprietary information on payment records, purchasing habits, and individual needs and requests.
- **Image.** They let subsidiaries use their names and logos, giving the new company instant name recognition among prospective customers.
- **Lists.** They have up-to-date lists of every home and business in their service territories. The subsidiary can reach all of these prospective customers at virtually no cost — not even postage — by inserting "stuffers" in the utility's monthly bill.
- **Financing.** Because they have a large capital base, their subsidiaries can offer customers special financing — at below-market rates, with no down payment and extended terms — and conveniently add it on to the customer's monthly utility bill.
- **Scale.** By making volume purchases, their subsidiaries bypass normal distribution channels and buy equipment directly from manufacturers — at reduced prices.
- **Advertising.** When utilities advertise their brand name, their subsidiaries benefit too.
- **Referrals.** With their access to information on customer requests, utilities can easily refer business to their own subsidiaries.
- **Overhead.** Utilities use their own managers, planners, accountants, lawyers, researchers, customer representatives, and technicians — all people who are part of the guaranteed rate base — to start and operate other businesses. In addition, office space, tools and equipment, vehicles, and computer facilities may be available.

But these assets really belong to you.

No other business has free access to such valuable information and resources. We should make it clear that ratepayer assets belong to the ratepayers, not the utilities.



Air Conditioning Contractors of America

Electric Deregulation and How Cross-Subsidization Harms Competition

The Case for Fair Competition

Deregulation of electric generation holds the promise of increased choice of service providers and lower electricity costs for American consumers and businesses. ACCA, a non-profit national trade association representing the interests of firms that design, install and repair heating, ventilation, air conditioning and refrigeration ("HVACR") equipment, also supports federal legislation to deregulate the electric power industry. We believe that members in our 67 chapters across the country will benefit from increased competition.

However, development of a competitive market for electric power will be undermined if Congress does not address the problem of utility cross-subsidization in any federal legislation to deregulate the electric power industry. By virtue of their current monopoly status, utilities enjoy substantial advantages over their prospective competitors in customer and marketing information, "name brand" recognition, equipment, tools, shared employees and other resources paid for out of the ratebase. These preexisting monopolies are increasingly using these ratepayer-based assets as a "transition strategy" to increase their advantage as deregulation looms large. Cross-subsidization occurs when monopolies use these assets, paid for by the ratepayer, to leverage their monopoly power in the market for electricity into related markets through the use of unregulated affiliate companies.

How Cross-subsidization Harms Competition

Cross-subsidization threatens to undermine the pro-competitive goals of electric deregulation. Among the detrimental effects that flow from cross-subsidies are:

- **Harm to Competition:** Cross-subsidization creates inefficiencies that retard true competition both in the market for retail electricity and in adjacent energy service markets such as HVACR contracting. Potential new entrants in the market for retail sales of electric power are harmed because ratepayer-based assets are being used to support unregulated affiliates whose services are then "bundled" with those of the incumbent utility to discourage new entrants. Competitors in adjacent energy services markets are also unfairly disadvant-

aged as these cross-subsidies allow the affiliates to make uneconomic decisions. Because the affiliate's costs are lower than other market participants or potential new competitors, the affiliates can use this cost advantage to undercut bids and drive out incumbent competitors or prevent new entries.

- **Harm to Consumers:** While cross-subsidies may initially allow the utilities' unregulated affiliates to offer a lower cost of service, prices will invariably rise in that market once existing competitors have been driven out. The threat of such price undercutting will be sufficient to discourage new entries into the market.
- **Harm to Small Business:** Small and medium-sized businesses will be disproportionately harmed by cross-subsidization. Adjacent energy service markets, such as HVACR contracting, are dominated by small business. While the competition in these markets is vigorous, these small businesses will be the first to be eliminated by the below cost pricing allowed by cross-subsidization.

The Solution

ACCA strongly supports definitive language prohibiting cross-subsidization in any federal legislation deregulating the retail sale of electric power. Such legislation must include a definition of cross-subsidization sufficient to capture transfers of both tangible assets (i.e. shared tools and equipment) as well as intangible assets (i.e. shared logos and trademarks). At the very least, ACCA believes that federal legislation must condemn cross-subsidization as contrary to the goal of fair and open competition, and provide specific examples of inefficient cross-subsidies to guide state commissions in their consideration of the many issues surrounding electric deregulation.

REVIEW OF STATE ACTIONS RE: CROSS-SUBSIDIZATION

Legislation

Arizona: Utility Deregulation Bill *HB 2663* enacted on May 29, 1998. Prohibits cross-subsidization, specifically banning advertisements of any utility affiliate from being included in the utility's monthly billing statements.

Colorado: Passed bill in 1993 prohibiting, but not defining cross-subsidization. The Colorado PUC also adopted cost allocation rules concerning utility cross-subsidization, which were effective June 1998. Rules require separation of the regulated utility and non-regulated affiliate. If cross-subsidizing, the utility must pay fair-market value for the services i.e. bookkeeping.

Delaware: Joint resolution establishing Fair Conduct rules for utility subsidiaries. No resolution

Georgia: *SB 215* deregulates gas utilities only. Prohibits, but does not define cross-subsidization.

Iowa: *SF 2370* prohibits and defines cross-subsidization.

Missouri: *HB 1038* prohibits and defines cross-subsidization. Enacted July 10, 1998.

New Mexico: *Senate Bill 428-"Electric Utility Industry Restructuring Act of 1999."* The bill separates regulated services from non-regulated services, includes language prohibiting cross-subsidization and "Codes of Conduct." Waiting Governor's signature.

Regulations

California: Adopted stringent controls on affiliate transactions, including corporate separation. Defines cross-subsidization. Enforces state codes of conduct. Approved 1997.

Delaware: Code of Conduct enacted by the Delaware Public Service Commission.

Illinois: Commerce Commission has submitted final rules governing affiliates. The Legislature tabled action until the 1999 session.

Massachusetts: 1996 Code of Conduct adopted by the Department of Telecommunications & Energy.

Nevada: Ruling issued on December 11, 1998. Ruling requires unregulated work to be run through separate affiliates. Utility affiliates may not share office space or personnel. The utility may not assist the affiliate in any financial situation. It cannot provide market data nor discriminate against competitors or give preferential treatment to its affiliate. Affiliates are to be charged the fair market value for any assets transferred from the utility. If a utility operates an affiliate, the utility must be audited within six months of the affiliate's start-up, and annually thereafter.

New York: PUC ordered all state utilities out of the HVACR business by 2000, unless utilities can prove they are not cross-subsidizing. Requires refund for past cross-subsidies, and that prices be immediately raised to unsubsidized levels.

Pennsylvania: Interim Settlement Code of Conduct for PECO only. Still working on general rules for the other utilities. Senate Bill 1529 introduced-prohibits and defines cross-subsidization.

Virginia: Agreement with Virginia Power that includes "Standards of Conduct" which apply to unregulated subsidiaries created by VA Power for activity within its service territory.

FYI: Other states are in the process of debating affiliate relations and "Codes of Conduct." Unfortunately, state legislation and regulations do not have jurisdiction over affiliates of utility-holding companies that cross state lines to sell services. This is why we need federal legislation that includes open access to books and an enforcement mechanism.

The NAFC Position In Summary

The advent of utility deregulation and restructuring has brought with it an intense competition for customers and markets. As part of this sweeping change, investor owned utilities (IOUs) have entered non-traditional, diversified business ventures seeking to capture markets and customers historically served by small businesses. Generally, the IOUs have established unregulated, non-utility affiliates from which to conduct these business ventures in competitive markets.

The problem is that, unlike their private sector counterparts, these utilities and their affiliates inhabit a mixed world of both regulated and unregulated economies where it is all too possible to shift the costs of the unregulated, competitive venture back to the regulated utility operation with its guaranteed coverage of costs and protected rate of return. This produces an enormously unfair competitive edge for the utility affiliated business; one with which small, private sector businesses lacking a base of captive ratepayers upon whom to pass the costs of operation, cannot hope to overcome.

To further achieve penetration of traditional private sector markets, IOUs and their affiliates are unfairly misusing their special status as a government sanctioned utility monopoly in their transmission and distribution operations. Because captive customers must deal with the local utility for basic connections and maintenance of electric wires, IOUs are able to use their customer contacts to steer business away from competitors and towards their own affiliates. This discrimination against other non-affiliated competitors, combined with pernicious cost-shifting and cross-subsidization produces a distorted market in which utility monopolies are guaranteed to prevail over private sector companies which have traditionally served the targeted markets.

Surprisingly, there is no federal statute which prohibits cross-subsidization of unregulated operations by a utility's regulated functions. In addition, there is often no substantial assistance from state regulatory bodies because they lack the authority to address issues of competitiveness. In addition, remedies at the state level are completely inadequate to address competition problems: no recovery can be had for lost markets or business as most utility commissions can only raise or lower rates for customers. Most utility affiliated operations face inadequate scrutiny; many face none at all.

With the special advantages available to utility affiliates in the cost-shifting and cross-subsidization areas coupled with the paucity of state or federal safeguards, IOUs possess the potential to drive many small, private sector businesses out of the market and severely impact the customer base of those which may survive.

Many respected authorities are in agreement that action is needed to save small business competitors from economic disaster. The Small Business Administration, members of Congress, and numerous private sector authorities have commented on the unfair competitive advantages available to utilities and on the need to curb the misuse of advantages accorded these regulated monopolies.

Congress should enact laws which clearly prohibit cross-subsidization and cost-shifting between regulated and unregulated utility operations. Congress should also provide states with the authority and direction to address competitiveness issues in a deregulated utility environment. Regulated utility functions and unregulated, competitive operations should be conducted from completely separate and distinct entities. Ideally, the relationship between a regulated utility and its unregulated, non-utility affiliate should be accorded no greater or lesser status than the relationship between a utility and any other private sector competitor in a deregulated marketplace.

UTILITIES & CONTRACTORS: THE CASE FOR FAIR COMPETITION

"Competition with monopoly utilities in unregulated markets can result in the destruction of non-utility competitors..."

That's what the U.S. Small Business Administration's Office of Advocacy said more than 10 years ago! Today, as big utilities prepare to compete with each other for the first time in an unregulated energy marketplace, they're looking for new ways to make money. According to a recent report in the *Washington Post*:

"Many utilities, looking for new ways to compete to weather the shakeout that is expected to occur when their industry is deregulated, are getting into the heating, ventilation and air conditioning business..."

That's bad news for the American consumer. More than 100,000 heating, ventilation, air conditioning, refrigeration (HVACR), and other specialty contractors do \$60 billion worth of business each year fulfilling the appliance and service needs of more than 100 million households and businesses. Each of these companies — and the more than 600,000 people who work for them — is endangered by unfair utility competition.

Utilities unfairly — and often illegally — subsidize their entry into these businesses by using money they get every month from energy ratepayers. That's unfair because utilities are monopolies. The government guarantees their profits. Because they're monopolies, the government also regulates utilities. The government should prohibit utilities from using their guaranteed profits to subsidize unregulated businesses.

The U.S. Small Business Administration says utilities use many techniques to cross-subsidize unregulated businesses with ratepayer money. They do things small business operators can't do, giving their subsidiaries an unfair advantage. For example, utilities:

- **Provide cash.** They give unregulated businesses loans and loan guarantees. They also let the subsidiaries share their excellent credit ratings.
- **Reduce overhead.** They subsidize everything from office space and equipment to lawyers and accountants for their unregulated businesses.
- **Reach customers.** They let subsidiaries use their logos and brand names as well as tap into their customer databases. Utilities also advertise subsidiary products and services and pay for the postage to mail information to energy customers.
- **Offer incentives and rewards.** They refer information on customer needs and requests to their own subsidiaries, buy consumer appliances at reduced prices directly from manufacturers, and provide easy customer financing for purchase from their subsidiaries.

“Where utilities charge substantially less than independent contractors for comparable services, some form of cross subsidization... can be reasonably suspected.”

U.S. Small Business Administration
Office of Advocacy

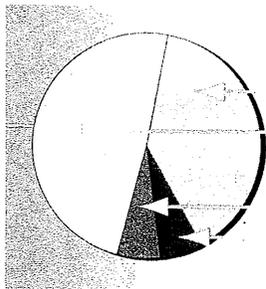
Traditionally, contractors have tried to stop illegal utility cross subsidies during rate hearings. But it's nearly impossible for small businesses — many of them family-owned contracting companies — to challenge big utilities. Actions before state regulators, who set utility rates, are lengthy and complex. The Small Business Administration calls them “prohibitively lengthy and expensive” for small companies.

There is a simple answer to unfair utility competition. Congress should pass a law making it illegal for utilities to use ratepayer money to subsidize unregulated businesses.

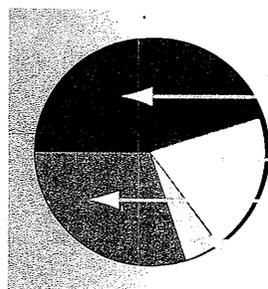
That's how Congress solved a similar problem in 1995, when they deregulated the telecommunications industry. They included language in the law that prohibited the big local phone company monopolies from competing unfairly against small businesses in a number of fields including electronic publishing and alarm monitoring. Congress told the local phone company monopolies they could not subsidize new ventures using money from local telephone customers and they could not let their new affiliates use their business names and trademarks. Congress should do the same thing when it deregulates the electric power industry.

Some states are taking steps to protect more than 600,000 people who work in the \$60 billion specialty contracting industry. But the problem is national in scope. It demands a national solution.

The Specialty Contracting Industry



More than 100,000 businesses provide specialty contracting services to America's households and offices.



HVACR contractors take the largest slice of the \$60 billion specialty contracting market.

Iowa and Georgia have already passed laws that prohibit utilities from subsidizing any non-utility businesses. That means utilities cannot let their subsidiaries use anything that was paid for by captive electricity or gas consumers — including trucks, tools, equipment, offices, or people.

Congress should do the same thing in federal legislation to deregulate the electric power industry. They should define the term "cross subsidization" and prohibit it.

Cross subsidies enable utilities all over the country to use what's left of their monopoly power to engage in anti-competitive behavior to eliminate existing businesses in service industries like heating, ventilation, and air conditioning.

It's ironic this is happening as the utility industry prepares for electric power competition. If utilities take the dominant role in the HVACR industry, the result will be less competition for services, fewer choices for consumers, and higher costs.

The Illinois Commerce Commission recognized what can happen if utilities are allowed to enter the contracting industry and behave like monopolies. In March 1997, it refused to let Commonwealth Edison (ComEd), the state's largest electric utility, provide energy support services to energy users, saying:

"Any provider able to dominate the market by virtue of its position as a monopolist of one service in that market — as ComEd is — will inevitably drive many, or all, competing firms from the market. When ComEd attains a dominant market position, it can reasonably be expected to exercise market power by exploiting the market through raising prices and/or restricting the provision of service."

This kind of market concentration is bad for consumers. Prices will go up and the quality of service will go down when consumers have only one choice — their utility — to turn to for specialty services.

But utilities in states from Delaware to Nevada and from Michigan to Florida are trying to take over the heating, ventilation, and air conditioning industry. They know it's a multi-billion-dollar market, and they think it will be easy to eliminate the competition.

If they succeed, it will be bad for competition and bad for consumers.

Congress should act now to end unfair utility competition. They should pass a law that will prohibit utility cross subsidies.

Failure to act will mean less competition, fewer choices, and higher prices for every consumer.



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How ACCA Serves Its Members

There are many services that ACCA provides its members include:

Technical Support

ACCA's Technical Reference Library includes valuable, newly reports on technical topics to help members improve their skills. ACCA's technical manuals, which comprise the "Environmental Systems Library" cover important subjects such as load calculation, duct design and equipment selection. ACCA also offers classroom training on these subjects. In addition, the Association, in operation with Ferris State University (Big Rapids, MI), offers the industry's largest and most effective technician certification program for refrigerant recovery and cycling.

Management Support

ACCA's Management Reference Library includes broad and detailed information to improve members' business management methods. The Association offers educational programs on financial and business issues and other topics. ACCA's Annual Meeting and Management Information Exchange program offer contractors opportunities to gather and share practical, field-tested information on managing their contracting business.

Government Relations

As the nation's capital, ACCA vigorously promotes the interests and the concerns of its members to the U.S. Congress and to the federal agencies that implement the laws passed by congress. ACCA is here to oppose legislative and regulatory proposals that would harm HVACR firms and on hand to push for beneficial changes or additions to current laws.

The ACCA Government Relations program encourages input and participation from its members in the association's goal of influencing public policy to improve the HVACR business climate.

Industry Relations

ACCA monitors distribution and sales practices of HVACR equipment manufacturers and wholesalers. Regular meetings are held with major manufacturers to discuss equipment technology, marketing strategies, competition issues, training needs and industry trends. ACCA works to protect the interests of contractors and to preserve a free, open, and fair marketplace.

Information

ACCA informs members on vital issues affecting the HVACR industry via the *ACCA News*, a monthly newsletter. The Association also publishes an annual membership directory; a safety manual; an employee safety handbook; technical manuals and bulletins; management, sales, and safety bulletins; and consumer information.

ACCA Structure

The Air Conditioning Contractors of America is governed by a Board of Directors composed of members elected from 11 geographical regions of the country. A House of Delegates — composed of one member from each chapter and one member from each region — reviews issues affecting the Association and makes direct recommendations to the Board of Directors. The work of the Association is conducted under the direction of five standing committees and more than a dozen task teams.

Coordinating the work of the Association is a professional staff headquartered in Washington, D.C.

For more information or to apply for membership, contact:



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AIR CONDITIONING CONTRACTORS OF AMERICA

ACCA'S MISSION

ACCA's mission is to assist and enable its members to acquire, serve and satisfy their customers. ACCA pursues this mission by:

- ▲ Providing the highest quality of technical and management information and services
- ▲ Promoting good business ethics and sound business practices
- ▲ Being the standard of excellence by which others are measured
- ▲ Influencing public policy to improve the business climate
- ▲ Enhancing the image of contractor professionalism to government, industry and the public
- ▲ Maintaining and expanding ACCA's membership base and sphere of influence

Representing

Heating,

Ventilating,

Air Conditioning

and

Refrigeration

(HVACR)

Contractors



Air Conditioning Contractors of America

What is ACCA?

Conditioning Contractors of America (ACCA) is a national trade association of heating, ventilating, air conditioning, and refrigeration (HVACR) contractors. ACCA represents and serves individuals and corporations who sign, install, service and repair air conditioning, heating, refrigeration, humidification, dehumidification, air filtration and ventilation systems. ACCA was formed in 1995 through the merger of Airconditioning and Refrigeration Contractors of America (established in 1946) and National Warm Air Heating and Air Conditioning Contractors Association (established in 1914).

ACCA has over 3,000 members and more than 50 local chapters (chapters) across the country. In addition, ACCA's membership includes manufacturers of HVACR equipment, equipment wholesalers and contractors, vocational and technical schools, utilities, and

Significant HVACR Contractor Issues

Among the many issues that affect HVACR contractors, the following are currently the most crucial:

Atmospheric Ozone Protection

Under the U.S. Clean Air Act, chlorofluorocarbons (CFCs) which are used in commercial air conditioning and refrigeration and other applications will not be produced after December 31, 1995 because they contribute to the depletion of the earth's ozone layer. ACCA supports legislation to phase out the production of CFCs and the transition to alternative refrigerants which don't deplete the ozone layer.

The production of hydrochlorofluorocarbons (HCFCs) which also are used as refrigerants and are not as damaging to the ozone layer as CFCs— is scheduled to be phased out by 2030 under the U.S. Clean Air Act.

Some environmental groups believe that HCFCs should be phased out as early as 2005. ACCA believes that HCFCs — particularly HCFC-22, which is used in all residential air conditioners and heat pumps, as well as in some commercial air conditioning and refrigeration systems — are essential transition chemicals and must remain in use until new replacement refrigerants are developed and equipment can be converted. Industry experts have agreed that HCFCs cannot be phased out sooner than 2020. An earlier phaseout date will be damaging for our economy and also for the ozone layer if it discourages the use of HCFCs in place of CFCs. ACCA also opposes efforts to tax HCFCs.

Indoor Air Quality

Poor indoor air quality has become a major environmental issue as more energy-efficient, tightly-sealed buildings have been found to trap indoor pollutants. ACCA believes that the solutions to the problems associated with poor indoor air quality are complex and multidisciplinary, but that proper design and maintenance of HVACR systems are critical for mitigating and eliminating such problems. Properly trained and licensed HVACR contractors can help maintain the quality of indoor air while maximizing energy efficiency.

Utility Relations

ACCA is committed to improving the relationship between contractors and gas and electric utilities. For several years, that relationship has been severely strained as a number of state regulated utilities across the country have entered into direct competition with contractors for HVACR service and replacement business. By establishing unregulated subsidiaries and diversifying beyond their mission of providing safe and affordable energy, some of these energy monopolies have found new sources of revenue in the plumbing, heating, cooling, energy conservation and other businesses.

When an unregulated utility subsidiary conducts a program that competes with existing private sector businesses, many of the advantages of the utility's protected monopoly status remain even though the normal regulatory restrictions no longer apply. When this happens, contractors simply are not able to compete with the larger, better financed competitor especially if some or all of the utility's costs are subsidized by ratepayers. ACCA is firmly opposed to these unfair utility practices and supports legislation limiting utilities from using their unique status to gain an unfair advantage in direct competition with HVACR contractors.

At the same time, ACCA will continue to seek ways to foster cooperative and productive relationships with contractors and utilities, such as in demand-side management, performance contracting and other energy conservation programs.

Quality Improvement

The need to control unnecessary costs is becoming more critical to the ability of the HVACR contractor to compete. In addition, the demand for more knowledge and skill in the industry is increasing every day. At the same time, American consumers are becoming more informed about what to expect from businesses.

ACCA is dedicated to teaching its members the principles of managing quality in their business operations and to helping contractors implement the Quality Improvement Process (QIP) in their companies on a day-to-day basis. Through the Association's Quality College, ACCA teaches its members how to develop a business strategy around: exceeding customer requirements; measuring and evaluating performance; understanding that doing a job wrong and having inadequately trained people on the job cost the company real profits; and preventing problems before they occur.